Assembly Bill No. 1111

Passed the Assembly September 12, 2001

____
Chief Clerk of the Assembly

Passed the Senate September 12, 2001

____
Secretary of the Senate

This bill was received by the Governor this ________ day of ________________________, 2001, at _______ o'clock __M.

____
Private Secretary of the Governor

CHAPTER ________

An act to add and repeal Title 3.5 (commencing with Section 13750) to Part 4 of the Penal Code, relating to adult abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 1111, Simitian. Adult abuse: financial abuse specialist teams.

Existing law provides for misdemeanor and felony sanctions, including imprisonment and fines, for offenses involving the abuse of an elder or dependent adult, depending upon the circumstances.

Existing law provides for various procedures for the protection of individuals by the public guardian and by programs implemented by the State Department of Social Services.

This bill would establish in the Office of Criminal Justice Planning (OCJP) a program of technical and financial assistance for counties in order to enable a county to form a financial abuse specialist team with a rapid response component that would respond within 24 to 48 hours to reports of financial abuse or exploitation against elders and dependent adults. The bill would provide procedures for counties to obtain assistance and establish a financial abuse specialist team. OCJP would be required to submit a report to the Legislature and Governor every 2 years, as specified. The bill would provide that it would only be implemented to the extent that funds are appropriated for its purposes in the annual Budget Act or another statute. The bill would provide for the repeal of its provisions on January 1, 2007.

The people of the State of California do enact as follows:

SECTION 1. Title 3.5 (commencing with Section 13750) is added to Part 4 of the Penal Code, to read:

TITLE 3.5. ELDER AND DEPENDENT ADULT FINANCIAL ABUSE PROTECTION PROGRAM

13750. The Legislature finds and declares all of the following:

(a) The financial abuse and exploitation of elders and dependent adults is becoming an increasing problem as the population of California ages. Recent estimates reveal that the number of seniors age 65 and over nationwide will double in 30 years. National reports indicate that persons over 50 control at least 70 percent of the nation's household net worth. These two trends indicate the likelihood for continued growth in the number and severity of financial abuse crimes involving the elderly.

(b) Recent national studies indicate that, at minimum, only one in 14 incidents of financial abuse are reported to local public agencies, and as many as one in 25 incidents are brought to the attention of local public agencies. Fewer financial abuse cases are ever prosecuted or reach the court system.

(c) Many elderly and dependent adults are victimized by their own family members, friends, or caregivers and are often unaware of the financial abuse being perpetrated upon them until it is too late. Homebound and disabled persons are particularly susceptible to financial abuse by their caretakers.

(d) Financial abuse may lead to diminished health or even death, according to the Journal of the American Medical Association, which found that elders who are victims of financial abuse have a mortality rate three times higher than those who are not victims.

(e) Chapter 946, Statutes of 1998, established a statewide, comprehensive program of adult protective services. Since passage of this landmark legislation, counties now provide 24 hours, seven days a week response to allegations of elder and dependent adult abuse, case management services to all victims of abuse, and supports and services that are coordinated within each community.

(f) The adult protective services program requires counties to provide immediate response to incidents of abuse and neglect. However, the adult protective services program is not designed to fully support activities that are designed to prevent the loss of, or promote the recovery of, assets nor the prosecution of criminal cases that involve financial abuse. Financial abuse requires immediate, coordinated, and comprehensive response by a multidisciplinary team of financial and legal experts trained to intervene, freeze, and recover assets. This type of response is necessary to prevent the further depletion of assets, including savings accounts, deeds of trust, and stocks. Once resources are depleted, it takes those experts years to recover those assets, if they can be recovered at all.

(g) State leadership and financial assistance is needed by counties to convene multidisciplinary financial abuse specialist teams that are specially designed to respond immediately to incidents of financial abuse. This type of response is needed to prevent the loss of, or recover assets, to maintain elders and dependent adults in their own homes or other places of residence, and to reduce the need for other costly interventions, such as long-term or acute care.

13751. (a) There is hereby established in the Office of Criminal Justice Planning a program of technical and financial assistance for counties. This program shall be designated the Elder and Dependent Adult Financial Abuse Protection Program. All funds appropriated to the Office of Criminal Justice Planning for the purpose of this title shall be administered and disbursed by the executive director and shall to the greatest extent possible be coordinated or consolidated with federal funds that may be made available for these purposes.

(b) For purposes of this section, the Office of Criminal Justice Planning may consult with the California Department of Social Services and County Welfare Directors Association for the provision of technical assistance to counties. The Office of Criminal Justice Planning may retain up to 3 percent of the amount appropriated for the purposes of this chapter to cover costs associated with administering this program.

(c) The Executive Director of the Office of Criminal Justice Planning is authorized to allocate and award funds based upon a competitive process to counties that meet the applicable criteria set forth in this chapter and any other criteria established by the executive director. The executive director shall implement a streamlined application process to ensure that counties are able to complete applications and receive notice of funding no later than six months from the date of the release of applications.

(d) A county office of the public guardian or county adult protective services agency may submit an application to the Office of Criminal Justice Planning for technical assistance and funding to support the activities of a county financial abuse specialist team with a rapid response component, as defined in this chapter. The

Office of Criminal Justice Planning shall apply, but is not limited to, the following criteria in selecting counties to participate in this program:

(1) The existence of a financial abuse specialist team or the ability to establish a financial abuse specialist team upon receipt of state technical assistance and financing. For purposes of this section, a multidisciplinary personnel team as defined in Section 15610.55 of the Welfare and Institutions Code may be considered as a financial abuse specialist team. Each county financial abuse specialist team shall be comprised of a minimum of three representatives of different participating programs or agencies. Participation in the county financial abuse specialist team may include, but is not limited to, the following representatives:

(A) Adult Protective Services within a county social services department.

(B) Office of the Public Conservator or Public Guardian or Public Administrator.

(C) Police or other law enforcement.

(D) Prosecution.

(E) Mental health.

(F) Long-term care ombudsman.

(G) Any other representatives deemed appropriate by the county.

(2) Notwithstanding Section 15763 of the Welfare and Institutions Code, the ability of a team to respond within 24 to 48 hours to reports of financial abuse or exploitation against elders and dependent adults, upon an assessment by adult protective services or the financial abuse specialist team that intervention is warranted.

(3) Certification by applicant counties to provide a local match in an amount equal to funds received pursuant to this chapter. Local matching funding may be identified from in-kind contributions, private foundation funds, or other sources identified by the county, and shall be approved by the local board of supervisors upon final notification of the grant amount to be awarded.

(e) The proposal submitted to the Office of Criminal Justice Planning, and the distribution of grant funds awarded, shall be coordinated within each applicant county by an executive committee comprised of one representative of each local agency participating on the financial abuse specialist team. The executive committee shall distribute the grant funds awarded to the county under this chapter in a fair and equitable manner for the purpose of implementing this chapter. Participating counties shall utilize, to the greatest extent possible, any available federal funding to support the activities of the financial abuse specialist teams.

(f) The public guardian or adult protective services agency of each participating county shall prepare, in consultation with financial abuse specialist team representatives, and submit an annual report to the Office of Criminal Justice Planning containing the following information:

(1) A description of local protocols that have been developed and adopted by the local financial abuse specialist team, as defined in this title, to provide timely response and intervention in cases involving elder and dependent adult abuse.

(2) The number of cases reviewed and the number of cases intervened on behalf of elder and dependent adults by the financial abuse specialist team.

(3) The amount of total assets recovered or prevented from loss, including real property, liquid assets, and other assets as appropriate.

(4) The number and amount in restitution orders obtained by the district attorney's office in criminal court.

(5) The number of arrests and convictions that resulted from the pursuit of criminal charges.

(6) The number of cases in which the public guardian was appointed conservator of an elder or dependent adult, and the number of cases in which another person was appointed conservator.

(7) The number of elders and dependent adults that were maintained safely in their own home or other place of residence immediately preceding the incident of financial abuse.

(8) A fiscal summary detailing the total costs of the local program.

(g) For purposes of this chapter, information relative to the incidents of elder or dependent adult abuse may be shared among financial abuse team members consistent with Section 15633.5 of the Welfare and Institutions Code.

13752. As used in this title:

(a) ‘‘Elder’’ person means any person residing in this state, 65 years of age or older.

(b) ‘‘Dependent adult’’ means a person as defined in Section 15610.23 of the Welfare and Institutions Code.

(c) ‘‘Financial abuse’’ means a situation described in Section 15610.30 of the Welfare and Institutions Code.

13753. The Office of Criminal Justice Planning shall submit a report to the Legislature and the Governor every two years, commencing March 1, 2003, with regard to the programs established pursuant to this chapter. The report shall assess the effectiveness of the programs funded based on information submitted by counties pursuant to this chapter, and shall describe, at a minimum, the extent to which the following results have been achieved:

(a) Increased timeliness and processing of financial abuse cases by financial abuse specialist teams based on the number of cases served and the resulting resolution of those cases.

(b) Improved safety of elders and dependent adults based on arrest and conviction data.

(c) Increased safety, health, and economic well-being of elders and dependent adults based on the number and percentage of cases whereby the elder or dependent adult was maintained in his or her own home or other place of residence, and based on the amount of recovered or preserved assets.

(d) Decrease in number of repeat victims.

(e) Increase in state and county savings as a result of diverting elders and dependent adults from ongoing public services.

13754. This title shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

SEC. 2. This act shall only be implemented to the extent that funds are appropriated for its purposes in the annual Budget Act or another statute.

Approved ______________________________, 2001

____

Governor